

Serial No. 09/812,639
Response to Office Action of February 10, 2005

REMARKS

In light of the Office Action of February 10, 2005, the claims have been amended to a form which is believed to better distinguish the invention with respect to the cited references.

With respect to the rejection of claims 5 and 12 under 35 U.S.C. §101 on the grounds that the claimed invention is directed to non-statutory subject matter, the Examiner's rejection of the claims on the basis that they do not involve any use or advance of the technological arts seems to run contrary to the language of State Street cited in response to the last Office Action. The Examiner has not cited any authority for this proposition. What the Examiner is saying is that a novel business method is not patentable unless it applies, involves, uses or advances the technological arts. This would seem to run exactly contrary to the language of State Street cited in the last action. If the Examiner persists in this rejection, the Applicant asks for a citation of some authority for the proposition advanced by the Examiner.

The claims have been amended to clarify their language and more precisely define the invention. It is respectfully submitted that the claims are patentably distinguished from the art cited by the Examiner. The Examiner rejected claims 2-12 under 35 U.S.C. §103(a) as being unpatentable over Volz, in view of Health-Care Cards and information available at the website of SimpleCare. As noted in the response to the last Office Action, there are a number of inherent differences between the method of paying for a healthcare service as disclosed in Volz and that defined by the present claimed invention. In Volz, the healthcare user applies to a participating healthcare provider and the provider indicates the service desired to be performed. The healthcare provider then "estimates the total cost of services, including all physician visits and any necessary treatment or testing based on NAC's discounted rate." If the healthcare user desires to obtain the quoted service from the healthcare provider, they must "... pay to NAC the

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full estimated amount two days prior to the service. NAC then takes its cut from that amount and reimburses the physician with the remainder within 30 days. In the claimed method, a healthcare user simply obtains a desired healthcare service from a participating provider and presents the credit card, issued by the intermediary, as full payment for that service. The healthcare provider then obtains payment for the amount billed on the card from the intermediary and the intermediary bills the user who receives such discounted services for the payment. It is respectfully submitted that the distinction between the Volz reference and the present invention is clearly set forth in the claims.

The Health-Care reference appears to disclose a conventional credit card arrangement for use by Health-Care users in charging their healthcare costs, much like Visa or Mastercard. Unlike the present invention, as defined in the amended claims, there appears to be no contract between the intermediary and the healthcare providers whereby the healthcare providers will charge users of the cards issued by the intermediary a discounted fee relative to the fees charged to others.

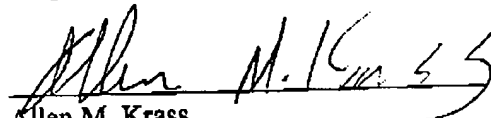
Moreover, Volz and Health-Care disclose two different third-party payment arrangements which are totally incompatible with one another. The Examiner states that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the limitations of Health-Care in the Volz system. Since the Volz system and the Health-Care system operate in completely different manners, it would not be a matter of incorporating the features of Health-Care in Volz, but rather producing the hybrid system containing features of both and eliminating other features of both. Neither reference discloses a system like that defined in the present claims for charging a healthcare obligation on a credit card and receiving a discounted fee from the contracting providers. Since Volz and Health-Care operate in

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completely different and incompatible ways, there is no suggestion in the references of combining their features. It is respectfully submitted that the present invention defines a healthcare system quite different from either Volz or Health-Care and provides advantages that neither provides. To suggest it would be obvious is to pick and choose elements from each is an exercise of hindsight in light of the present invention.

Reconsideration and allowance of the application are accordingly respectfully submitted.

Respectfully submitted,



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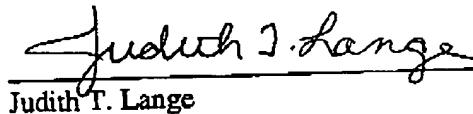
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CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being sent to the United States Patent Office via facsimile (703) 305-7687 on April 21, 2005.



Judith T. Lange